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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 RICHARD A. SHAPIRO,

12 Plaintiff,

13 vs.

14 PEOPLE OF THE STATE OF
CALIFORNIA,

15 Defendant.

CASE NO. 11cv2559 WQH BLM

ORDER

16 HAYES, Judge:

17 The matter before the Court is the Referral Notice filed by the Court of Appeals for the
18 Ninth Circuit. (ECF No. 15).

19 On November 3, 2011, Plaintiff Shapiro, a nonprisoner proceeding pro se, initiated this
20 action by filing the Complaint and the Motion for Leave to Proceed in Forma Pauperis ("IFP").
21 (ECF Nos. 1-2). On November 8, 2011, the Court granted the Motion for Leave to Proceed
22 in Forma Pauperis and dismissed the Complaint as frivolous pursuant to 28 U.S.C. §
23 1915(e)(2)(B)(I). (ECF No. 3). The Court stated: "The Complaint contains rambling
24 allegations lacking an arguable basis in fact or law" *Id.* at 2-3.

25 On December 2, 2011, Plaintiff filed a Motion to Re-Open the Case and filed a
26 Proposed First Amended Complaint asserting a violation of 42 U.S.C. § 1983. (ECF No. 6).
27 On December 14, 2011, this Court issued an Order concluding that the Court did not have
28 subject matter jurisdiction over Plaintiff's Proposed First Amended Complaint. This Court
stated:

1 The Proposed First Amended Complaint alleges that the state “trial
 2 court Pro Tem dismissed the testimony” of Plaintiff’s witness and
 3 refused to hear audio tape produced by Plaintiff. The Pro Tem “refused
 4 to grant [Plaintiff] community service after finding him guilty of not
 5 putting on his blinker.” (ECF No. 6 at 2). Plaintiff alleges that “The
 6 appellate division refused to make allowances for extraordinary
 7 circumstances in filing [Plaintiff’s] appeal....” *Id.* Plaintiff alleges that
 8 the appellate division refused to hear his matter. On December 2, 2011,
 9 Plaintiff filed the Motion for Stay of All Penalties. (ECF No. 8). The
 10 Motion for Stay of All Penalties states that Plaintiff is unable to pay
 11 “this blinker ticket ... [and] requests herein that all penalties be stayed
 12 until this matter is finalized in the District Court” (ECF No. 8 at 1).

13 “[A] United States District Court has no authority to review final
 14 judgments of a state court in judicial proceedings.” *District of*
 15 *Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983)
 16 (explaining that the district court lacks subject matter jurisdiction over
 17 the claim and a “[r]eview of such judgments may be had only in [the
 18 Supreme] Court.”); *see also Rooker v. Fidelity Trust Co.*, 263 U.S. 413
 19 (1923) (“*Rooker-Feldman*”); *Noel v. Hall*, 341 F.3d 1148, 1161 (9th
 20 Cir. 2003); *Worldwide Church of God v. McNair*, 805 F.2d 888, 892-93
 21 (9th Cir. 1986). “If a federal plaintiff asserts as a legal wrong an
 22 allegedly erroneous decision by a state court, and seeks relief from a
 23 state court judgment based on that decision, *Rooker-Feldman* bars
 24 subject matter jurisdiction in federal district court.” *Mooney v. Boli*,
 25 Case No. C 06-7875 SI, 2007 WL 781973 at *3 (N.D. Cal. Mar. 13,
 26 2007).

27 There are two statutory exceptions to the principle that district
 28 courts may not review state court judgments including: (1) petitions for
 writ of habeas corpus brought by state prisoners who claim that the
 state court has made an error of federal law; and (2) bankruptcy courts
 modifying, avoiding, or discharging state judgments. *Noel*, 341 F.3d
 at 1155 (citations omitted).

In this case, Plaintiff has filed a Cause of Action for Violation
 of 42 U.S.C. § 1983 seeking review of a final judgment of the state
 court. The Court concludes that it does not have subject matter
 jurisdiction over Plaintiff’s Proposed First Amended Complaint. The
 Court concludes that this case does not fit a statutory exception
 permitting the exercise of jurisdiction on the grounds that the case is
 not a petition for writ of habeas corpus and the case is not a bankruptcy
 appeal.

(ECF No. 9 at 2-3).

Plaintiff filed an appeal to the Court of Appeals for the Ninth Circuit. On March 6,
 2012, the Court of Appeals filed a Referral Notice stating:

This matter is referred to the district court for the limited purpose of
 determining whether in forma pauperis status should continue for this
 appeal or whether the appeal is frivolous or taken in bad faith. See 28
 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d
 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is
 appropriate where district court finds the appeal to be frivolous).

1 (ECF No. 15 at 1).

2 28 U.S.C. § 1915(a)(3) provides: “An appeal may not be taken in forma pauperis if the
3 trial court certifies in writing that it is not taken in good faith.” For the reasons stated in the
4 Court Order dismissed the Complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(I).
5 (ECF No. 3) and dismissing the First Amended Complaint for lack of subject matter
6 jurisdiction (ECF No. 9), this Court certifies that the appeal is not taken in good faith.

7 IT IS SO ORDERED.

8 DATED: March 13, 2012

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10 **WILLIAM Q. HAYES**
11 United States District Judge
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